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7 UNITED STATES BANKRUPTCY COURT  
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EASTERN DISTRICT OF CALIFORNIA - MODESTO DIVISION  
9

In re  
10 KENNETH GARY SALVI, JR. AND ERICA  
ANNE FOGGIATO SALVI,  
11 Debtor(s).

Case No. 10-94436

Chapter 7

D.C. No. PD-1

DECLARATION IN SUPPORT OF  
MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
(11 U.S.C. § 362 and Bankruptcy Rule 4001)

14 WELLS FARGO BANK, NA,

LBR 4001-1 and 9014-1(f)(2)

15 vs.  
16 Movant,

DATE: February 23, 2011  
TIME: 10:00 a.m.  
DEPT: E

17 KENNETH GARY SALVI, JR. AND ERICA  
ANNE FOGGIATO SALVI, Debtor(s);  
18 MICHAEL D. MCGRANAHAN, Chapter 7  
Trustee,  
19

1200 I Street, Suite 4  
Modesto, CA 95354

20 Respondents.

I, Teresa Diaz-Cochran, declare:

21 1) I am employed as a VP Loan Documentation by Wells Fargo Home Mortgage, a  
division of Wells Fargo Bank, NA ("Movant"). I have personal knowledge of the matters set forth in  
22 this declaration and, if called upon to testify, I could and would competently testify thereto. I am  
over 18 years of age. I have knowledge regarding Movant's interest in the real property that is the  
23 subject of this Motion.

24 2) I am familiar with the manner and procedures by which Movant's business records  
are obtained, prepared, and maintained. Those records are obtained, prepared, and maintained by  
25  
26

1 Movant's employees or agents in the performance of their regular business duties at or near the time,  
2 and conditions, and/or events recorded thereon. The records are made either by persons with  
3 knowledge of the matters they record or from information obtained by persons with such knowledge.  
4 I have knowledge and/or access to Movant's business records regarding the Note and Deed of Trust  
5 that are the subject of this action and have personally reviewed these business records prior to  
6 executing this declaration.

7       3) On or about January 11, 2005, Debtors, for valuable consideration, made, executed  
8 and delivered to San Diego Cornerstone Mortgage ("Lender") a Note in the principal sum of  
9 \$359,650.00 (the "Note"). Pursuant to the Note, Debtors are obligated to make monthly principal  
10 and interest payments commencing March 1, 2005, and continuing until February 1, 2035, when all  
11 outstanding amounts are due and payable. A copy of the Note is attached to the concurrently served  
12 and filed Exhibits to the Declaration in Support of Motion for Relief From Automatic Stay  
13 ("Exhibits") as exhibit A and incorporated herein by reference.

14       4) Movant qualifies as the Note holder with standing to prosecute the instant Motion as  
15 Lender indorsed the Note in blank, thereby converting the Note to a bearer instrument and Movant is  
16 currently entitled to possession of the indorsed in blank Note.

17       5) On or about January 11, 2005, Debtors made, executed and delivered to Lender a  
18 Deed of Trust (the "Deed of Trust") granting Lender a security interest in the certain real property  
19 located at 290 Blair Mine Road, Angels Camp, California 95222 ("Real Property"), which is more  
20 fully described in the Deed of Trust. The Deed of Trust provides that attorneys' fees and costs  
21 incurred as a result of the Debtors' bankruptcy case may be included in the outstanding balance  
22 under the Note. The Deed of Trust was recorded on February 8, 2005, in the Official Records of  
23 Calaveras County, State of California. A copy of the Deed of Trust is attached to the Exhibits as  
24 exhibit B and incorporated herein by reference.

25       6) Subsequently, Lender's beneficial interest in the Deed of Trust was assigned and  
26 transferred to Movant. A copy of the Corporation Assignment of Deed of Trust evidencing the  
27 Assignment of the Deed of Trust to Movant is attached to the Exhibits as exhibit C and incorporated  
28 /./.

1 herein by reference.

2       7) The obligation under the Note is in default as of May 1, 2010, for failure to make  
3 payments to Movant. As of January 11, 2011, the total obligation due and owing under the Note is in  
4 the approximate amount of \$368,276.22, representing the principal balance of \$358,017.99, interest  
5 in the sum of \$9,045.45, accumulated late charges in the amount of \$525.66, recoverable balance in  
6 the amount of \$672.12, and other fees of \$15.00. This is an approximate amount for purposes of this  
7 Motion only, and should not be relied upon as such to pay off the subject loan as interest and  
8 additional advances may come due subsequent to the filing of the Motion. An exact payoff amount  
9 can be obtained by contacting Movant's counsel. Further, Movant has incurred additional post-  
10 petition attorneys' fees and costs in bringing the instant Motion. Moreover, the total arrears under the  
11 Note are in the approximate sum of \$16,311.18, excluding the post-petition attorneys' fees and costs  
12 incurred in filing the instant Motion.

13        8) As a result of the default under the Note, a Notice of Default was recorded on  
14 September 13, 2010.

15       9) I am informed and believe that, based on the Debtors' bankruptcy Schedules and  
16 Statements, the fair market value of the Property is approximately \$350,000.00. True and correct  
17 copies of the Debtors' bankruptcy Schedules "A" and "D" are collectively attached to the Exhibits as  
18 exhibit D and incorporated herein by reference.

19 || 10) Based on the above, Movant maintains that the equity in the Property is as follows:

20	Fair Market Value:	\$350,000.00
21	Less:	
22	Movant's Trust Deed	\$368,276.22
23	Technology Credit Union - 2nd Deed of Trust	\$92,823.48
	Calaveras County - Tax Lien	\$8,318.77
	<u>Costs of Sale (8%)</u>	<u>\$28,000.00</u>
	Equity in the Property:	\$<147,418.47>

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 31 day of January 2011, at

26 ~~100~~ mel, 51 (city, state).

  
- 3 -  
Teresa Diaz-Cochran